ISRAEL

TRADE SUMMARY

The U.S. trade deficit with Israel in 1999 was an estimated $2.2 billion, based on U.S. Department of Commerce statistics, up from $1.7 billion in 1998. U.S. merchandise exports to Israel totaled $7.7 billion, up 10.3 percent over 1998 levels. U.S. imports from Israel were $9.9 billion, up 14.4 percent from 1998. The stock of U.S. foreign direct investment (FDI) in Israel in 1998 was $3.1 billion, an increase of 51.2 percent over 1997 levels. U.S. FDI in Israel is concentrated in the manufacturing sector, although investment in financial services is increasing. More than half of all U.S. FDI is in electronics- related manufacturing.

The United States-Israel Free Trade Area Agreement

The United States-Israel Free Trade Area Agreement (FTAA), implemented on September 1, 1985, called for phased tariff reductions culminating in the complete elimination of duties on non-agricultural products effective January 1, 1995. The agreement eliminates most trade barriers between the United States and Israel, leaving Israel's agricultural sector as the only one where substantial non-tariff barriers and levies remain.

Given the substantial trade barriers remaining in the agricultural sector, the United States and Israel signed a five-year Agricultural Agreement establishing a program of gradual and steady market access liberalization for food and agricultural products

The U.S.-Israel Joint Economic Committee (JEC), created to supervise implementation of the agreement, has proved itself a useful mechanism for addressing a wide range of bilateral trade issues. The JEC last met in Washington in October 1999. The delegations discussed key trade issues, including Israeli intellectual property rights (IPR) protection and barriers to exports of U.S. beef and wine to Israel (discussed below).

IMPORT POLICIES

Tariffs

All remaining duties on United States non-agricultural products were eliminated on January 1, 1995.

Agriculture

Israel maintains extensive restrictions on food and agricultural imports. These include tariff-rate quotas (TRQs), prohibitive levies, and import bans. Quantitative or non-tariff measures (such as TRQs and bans), are permitted under the 1985 FTAA, and by inference, the 1996 Agricultural Agreement, on the basis of agricultural policy considerations or on religious grounds.

According to the 1996 Agricultural Agreement, all U.S. food and agricultural products have access to the Israeli market under one of three different categories: unlimited duty-free access; duty-free TRQs; or preferential tariffs, which are generally set at least 10 percent below Israel's Most-Favored Nation (MFN) rates. Although exports of many U.S. agricultural products to Israel are still restricted by very high tariffs, the 1996 Agreement provides for improved access during each year of the agreement by increasing the TRQs and reducing tariff levels for a significant number of U.S. goods.

Although Israel has agreed to improve transparency in the calculation of levies, progress remains uneven. The principal problem lies in the calculation of domestic costs of production in Israel as the basis for high import levies imposed on imported food and agricultural goods. Another issue is the treatment of certain imports that is apparently inconsistent with Article 6 of the 1985 FTAA. For example, Israel imposes levies on processed food products such as pasta, some modified starches, and processed fish, none of which are subject to agricultural policy considerations as required by Article 6. Despite increased local currency values resulting from a 28-percent depreciation of the shekel between 1996 and 1999, the government has raised reference prices and levies based on agricultural production costs by an average of 20 percent.

U.S. agricultural producers have experienced difficulties with the Israeli TRQ system. U.S. officials have received many complaints about Israeli delays in issuing import licenses and have expressed concern about the lack of timeliness or transparency in the TRQ licensing process.

In 1997, the U.S. and Israeli governments negotiated a TRQ to provide market access for U.S. almonds, but the high ex-TRQ duty rates effectively prohibit additional access when there are shortages in the local Israeli market. According to industry estimates, elimination of this barrier could result in increased sales by U.S. companies of less than $10 million.

Meat Imports

U.S. meat exports to Israel face an especially difficult environment because Israel's "Meat and Meat Products Import Law" effectively prohibits the importation of any meat or meat product not carrying kashrut certificate issued by Israel's Chief Rabbinate. However, Israel does permit domestic production and marketing of non-kosher products such as pork, shellfish, as well as non-kosher beef. On this basis, the import ban on non-kosher meat appears to be a direct violation of the 1995 FTAA, which requires that any religion-based restrictions be implemented in accordance with the principle of national treatment. The U.S. Government has raised this issue during separate consultations following the October 1999 Joint Economic Commission (JEC) meeting and awaits Israel's response. U.S. firms estimate that elimination of this prohibition on non-kosher imports could result in a $10 million increase in sales.

Kosher Certification

The United States-Israel FTAA permits measures relating to prohibitions on religious grounds, "provided that they are applied in accordance with the principle of national treatment." In certain cases, U.S. businesses have complained that the process for granting kosher certificates is discriminatory, and serves to protect domestic products. The process for obtaining kashrut certification is not transparent, as the party seeking certification must pay the "costs" of rabbinical inspection to determine that the ingredients and manufacturing of the product satisfy religious standards. Some businesses claim the fee does not reflect the actual costs of the inspection (in some cases, a percentage of sales has been charged, for example). Moreover, indirect supervision by a rabbi resident in the country of manufacture is permitted in some cases but not in others. Significant problems remain in these sensitive sectors. The United States is pursuing these complaints directly with the government of Israel. Industry estimates that elimination of this barrier could result in an increase in U.S. exports of $10-25 million.

Wine Imports

When the U.S.-Israel Agricultural Agreement was signed in November 1996, a significant preferential tariff became effective for U.S. wines. However, Israel has subsequently made annual reductions to the Most-Favored-Nation tariff rate on wine, sharply eroding the margin of preference for U.S. wines. Following Israel's January 2000 reduction, the $1.50 and $4.00 per liter duty on U.S. wine became higher than that of all other imported wines for the first time since 1996. The result is an incentive for importers to favor non-U.S. wines in Israel's most popular price range. The potential increase from the removal of this barrier is less than $10 million. The U.S. Government raised this issue during the October 1999 JEC meeting and requested that Israel enter into discussions to improve market access for U.S. wine.

TAMA

The Government of Israel uses a system known as "TAMA" to approximate the local wholesale price of a good by adding a fee based on "estimated profits," insurance, and inland freight to the declared value of an import for purposes of calculating purchase taxes. Coefficients for calculation of the TAMA vary from industry to industry and from product to product, but the effect is to establish higher taxes on imports than are applied to domestic products. The Government of Israel claims that without TAMA, an imported good benefits from a lower purchase tax than a comparable domestic product. In 1991, at the urging of the United States, the Government of Israel revised the TAMA calculation system, providing most registered importers with the option to declare the actual wholesale value of their products. Although the new arrangement has been in force since 1991, not a single importer has opted for the new system. Israeli officials claim that the importers are reluctant to use the new system because they have determined that the former TAMA rates are more advantageous. Importers, however, cite a variety of problems with the optional system, including the inability to modify prices once they have been declared. As the new optional TAMA has not operated as anticipated, the U.S. Government continues to seek to eliminate the discriminatory effect of TAMA on U.S. exports. U.S. industries estimate that this could result in a potential increase in U.S. exports of between $10 and $25 million.

Purchase taxes

Purchase taxes of 25 percent to 95 percent are applied to both local and foreign products ranging from automobiles and refrigerators to alcoholic beverages and cigarettes. On many other products, including consumer electronics, building inputs, and office equipment, Israel has reduced or eliminated purchase taxes. However, where there is no local production of the imported good, the purchase tax becomes a duty-equivalent charge. U.S. industries estimate that elimination of the purchase tax could lead to an increase in U.S. exports of between $25 and $100 million.

Wharfage and Port Fees

Until 1995, Israel charged importers 1.5 percent of the import's C.I.F. value for use of ports and stevedores, whereas exporters faced no charges. In effect, imports were subsidizing exports. In 1995, the U.S. Government received a commitment from the Government of Israel to equalize port fees for exporters and importers at 0.6 percent, to take effect by the end of 1996. However, by the end of 1999, the import fee still stood at 1.1 percent and the export fee was 0.2 percent. In 1999, the United States sought equalization of the fees. Israel's Ports and Railways Authority indicated that it plans additional reforms in 2000.

STANDARDS, TESTING, LABELING AND CERTIFICATION

Israel has reduced the burden of some discriminatory measures against importers. In 1990, Israel agreed to harmonize standards treatment, and to apply standards equally to imports and exports. Implementation of this promise has been slow. Enforcement of mandatory standards on domestic producers can be spotty, and in some cases (e.g., refrigerators, auto headlights, plywood, carpets, and labeling for food items), standards, as written or as enforced, enable domestic goods to meet requirements more easily than imports.

In 1999, the Knesset passed a law that provides that Israel can adopt more than one international or major national standard as the Israeli standard for a product. The Commissioner of Standards and the Standards Institution of Israel (SII), which share the major responsibility for developing Israeli standards, are considering how to implement the new law. No funds have been budgeted, however, for a systematic effort to revise Israeli standards to comply with the new government policy. It is hoped that U.S. standards as well as EU standards will be accepted for most products. For example, the United States is working with SII to resume U.S. ladder exports, which were halted when SII adopted EU standards.

GOVERNMENT PROCUREMENT

Israel is a signatory to the WTO Agreement on Government Procurement, which covers most Israeli government entities and government-owned corporations. Open international public tenders are published in the local press. However, government-owned corporations make extensive use of selective tendering procedures.

In accordance with the Israel public tendering law, all international public tenders with a value of at least $100,000 contain requirements for "industrial cooperation" (IC) with Israeli entities in the amount of 35 percent of the value of the total contract. U.S. companies may invest in local industry, co-develop or co-produce, subcontract to local companies, or purchase from Israeli industry to satisfy the IC offset requirement. U.S. suppliers have found the size and nature of their IC proposals to be a decisive factor in tight tender competitions, despite a court decision that prohibits the use of offset proposals in determining award of a bid.

For civilian local currency procurement by the Ministry of Defense (MOD), a U.S.-Israeli Memorandum of Understanding (MOU), extended in December 1997, gives U.S. competitors equal status with domestic suppliers. Despite this MOU, few U.S. companies have been successful in supplying the MOD. U.S. suppliers have expressed concerns about the lack of transparency and apparent lack of justification for excluding U.S. suppliers from MOD tendering opportunities.

INTELLECTUAL PROPERTY RIGHTS PROTECTION

Israel is a member of the World Trade Organization (WTO) and the World Intellectual Property Organization (WIPO), and is a signatory to the Berne convention for the protection of literary and artistic works, the Universal Copyright Convention, the Paris Convention for the Protection of Industrial Property, and the Patent Cooperation Treaty.

In April 1999, USTR announced that Israel would again be placed on the "Special 301" Priority Watch List. In making this announcement, USTR cited a number of concerns, including specific concerns about the inadequacy of Israel's copyright law; high levels of IPR piracy, particularly audio CDs; insufficient police and prosecutorial attention to IPR cases; and proposed amendments to the pharmacists law that would weaken patent protection for pharmaceuticals and sanction the unfair commercial use of test data .

Israel has taken several steps to improve IPR protection, but piracy of intellectual property remains a major problem. The government has established a cabinet-level subcommittee to review IPR issues, and a special unit in the police force dedicated to IPR enforcement is expected to receive more resources that will improve its effectiveness. There are plans to hire and train additional prosecutors to focus on IPR, and Israel has undertaken a number of public awareness efforts. While these are positive developments, enforcement efforts have not risen to the level needed to combat continuing piracy. Losses to U.S. industry are estimated in the range of $160 to $200 million from software, video, and CD/cassette piracy.

Israel passed legislation in December 1999 intended to amend patent, trademark, copyright, and other relevant laws to bring Israel into compliance with its commitments under the Agreement on Trade-Related Aspects of Intellectual Property (TRIPS) by January 1, 2000. These amendments, however, do not provide adequate protection for confidential test data. Copyright amendments are expected to enhance rights of distribution in connection with rental rights and imports of copyrighted materials, but do not make end-user software piracy on a commercial scale a criminal offense. Israel's Ministry of Justice recently announced that it has begun the process of replacing older intellectual property laws with a more modern legislative framework. These reforms would include a new copyright and trademarks law, as well as significant amendments to the patent law.

SERVICES BARRIERS

Telecommunications

Israel's telecommunications sector is being liberalized gradually. Foreign companies participate in joint ventures providing cellular and international telephone service. The government is expected to open domestic telephone service to domestic and foreign competition in 2000. A third cellular licensee was brought to market in 1998, and a fourth cellular license will be tendered in 2000. DBS satellite broadcasts are expected to begin in 2000.

Israel's dominant telecommunications carrier, Bezeq, has maintained a discriminatory interconnection charge on calls to and from the United States and Canada that is higher for North American traffic than for traffic to any other part of the world. When first applied in 1995, the fee was $.07 per call to or from North America and $.04 to or from other countries. The fee is declining annually and will be phased out after December 31, 2001.

Other

U.S. attorneys and accountants seeking to practice in Israel face strict testing requirements. Israel's financial services sector generally is open to foreign participation, subject to standard regulatory requirements. One U.S. firm, an armored courier service, has complained that subsidies and tax exemptions have allowed the Israeli Postal Authority to charge a price substantially lower than its private sector competitors. The American firm sought relief through Israel's judicial system, and the case is currently under review in Israeli courts.

INVESTMENT BARRIERS

The Israeli Government actively solicits foreign private investment, including joint ventures, especially in industries involving exports, tourism, telecommunications, and high technology. Foreign firms are accorded national treatment in terms of taxation and labor relations, and are eligible for incentives for designated "approved" investments in priority development zones. There are generally no ownership restrictions, but the foreign entity must be registered in Israel. Profits, dividends, and rents generally can be repatriated without difficulty through a licensed bank.

About 750 major U.S. companies have subsidiaries in Israel, and some 180 Israeli companies have subsidiaries in the United States. Investment in regulated sectors, including banking, insurance, and defense industries, requires prior government approval.

Israel is a member of the International Center for the Settlement of Investment Disputes (ICSID) and a party to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

ELECTRONIC COMMERCE

Israel is on the cutting edge of Internet software developments and generally supports U.S. efforts to ensure that electronic transmissions will not be subject to tariffs. U.S. industry has reported no barriers to electronic commerce.